G. R. S. IX-5]

Previous references.
Legis 24-4-16
— 11-12-20
— 8-12-42
— 13-14 (345
— 28-15 — 2

1916. 16 (Legis)

File No. 35-15

Serial Nos. 1-5

Later references.
Legis 8-16-2
- J.D. 165-16
" 173-16
Confl cdln no 205 (Vol II)
Legis 35-15 (6-B)
C.R. 239-22-1 (Confdl.)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 — 5

Preserve for 3077/29

Part B for Sep 16

SUBJECT.

Prayer of Mr. Srinivasa murthy Purnaiya requesting Govt to take action against the Jaghirdar under rule 5 of the Yelandur Jaghir Annuity Rules recovering the annuity due to him from the Jaghir.

5) To Mr. Narasinga Rao Purnaiya
" Srinivasa murthi —"—
Lady Krishnamurthi.
J. 1190-2 dy 21.9.16.

States that Govt see no reason to modify the order already passed and requests the Jaghirdar of Yelandur to disburse the annuities within 2 monthes from the date of this order.

29/9/16

W D 82—GPB—50,000—24-7-16

G. R. S. 11] 1915-16

GENERAL AND REVENUE SECRETARIAT.

(Legis)

NOTES.

File No. 35-15

FILE HEADING.

Prayer of Mr Srinivasamurthy Purnaiya requesting Govt to take action against the Jahgirdar of Yelandur under rule 5 of the Yelandur Jahgir Annuity Rules, for recovering the annuity due to him from the Jahgir.

From

~~The Hon'ble~~ Mr Srinivasamurthy Purnaiya
Nellore

No. — Dated 14/1/16 Received 18/1/16

Diary No.	Enclos. —	Spare Copies. —	Serial No. 1
J 1972			

BRIEF ABSTRACT OF LETTER.

Complains that he has not received the annuity ordered by Govt in their Proceedings No J 1366-8/Legis dated 5/10/15 and on demand the Jahgirdar has replied that as he has applied for to Govt for reconsidering their order of Oct: 15 he could not pay any annuity till their orders are passed by Govt and requests Govt to take action against under rule 5 of the annuity rule to get him the annuity.

NOTES AND ORDERS.

Legis 28-15.

Submitted. The complaint lodged by the Jahgirdar of Yelandur on the Govt order No J 1366-8/Legis/5-10-15 is now with the Dewan with a draft submitted

NOTES—First Sheet.

GPB—20,000-8-8-14

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 35 of 1915.

Serial No.

Under rule 5 of the ~~rules~~ annuity rules the Govt may after giving notice to the Jahgirdar and hearing his objections, if any, recover the sum from the Jahgirdar under the procedure prescribed for recovery of arrears of land revenue for payment to the person entitled. May a notice be sent accordingly to the Jahgirdar in this case.

12/2/16

I-34

2) Nu case should not have been delayed so long. Please put up draft notice

Legis 12/2

12/2

3) Subd. Draft notice is put up. The date of hearing has to be fixed

12/2

4) A date for hearing may be fixed after the objections are received from the Jahgirdar

12/2

First Member)

5) Has a reply been sent to the Jahgirdar's petn for revision of the order?

12/2/16

6) The file was received today with H.H.'s orders. The reply is under issue

14/2

(First Member)

14/2

NOTE—Contn. sheet.

JPB—70,000—17-12-15

J 1972

G. R. S. 12]

General and Revenue Secretariat. | Legs File No. 35 (3) of 1915.

Serial No.

6) It is possible that Mr. Purnaya may settle the claim after receiving that order. This may be kept for about a week.

Secy B.

H

7) (The notice may go in the form of a letter. Even a Civil Court may substitute a letter in such cases.)

Legs 15/2

14/2/16

H

Dept. seems orally ordered that this may be kept by till the 1st of March 1916.

15/2/16

Dept 15/2

EB 15/2

8) Secy. May a notice issue now as no communication about any settlement having been arrived at has been received here. A revised draft is put up.

1/3/16 MK

9) Issue

EB 1/3

2 To Jaghirdar of Yelandur Bangalore

Conf 3601 6-3-1916

Requests him to send his objec-

Secy H

NOTE—Contn. sheet.

GPB—70,000—17-12-15

2634

(4

G. R. S. 12]

General and Revenue Secretariat. | Legis File No. 35 of 1915.

Serial No.

tions to show why Govt should not order the recovery of the arrears of annuity as an arrear of land revenue.

3 No 1322 dated 31st March 1916
From the Jahgirdar of Yelandur
~~Informs~~ Represents why Orders should not be passed directing the recovery of arrears of annuity due to Mr Srinivasamurthy as an arrear of land revenue and requests that a date for hearing may be fixed to hear his council.

10) Subr.

4/4/16

11) For favour of orders for date for hearing

I-34
(1915)

Es
4/4

Second Member
Dewan

12) The 10th May next, or any other day thereafter that may be convenient to the Dewan, may be fixed — 10/4/16

Dewan 10/4

52443
10.4.16

(Vide note by Dewan to 2nd Mr ... Es
Dy Cr ...
17.4.16

NOTE—Contn. sheet.

5

Legislative File No.35 of 1915 in regard to the payment of annuities due to Mr.Srinivasa Murti Purnaiya of the Yelandur Jaghir.

236.
18.4.16.

13) *The file is forwarded to the Second Member of Council.*

14) *I shall be obliged if the Second Member will kindly study the case and explain its legal aspects at a Council meeting. A date for hearing the parties may, if necessary, be fixed thereafter.*

17.4.16. R.6

15) As it has not been feasible to bring up the case at a Council meeting earlier I have recorded my views in a self-contained note which I have sent separately* to the Dewan.

14.7.16

* marked confidential.

P.T.O

GOVERNMENT OF MYSORE

Bangalore
14.7.16.

Dear Sir Visvesvaraya,

I am sending herewith a typed note embodying my detailed views in connection with the Yelandur Jaghir Annuities. The matter is one of some delicacy and urgency, especially in view of the attempt made by Dr Nanjunda Rao Purnaiya to free the hands of the Durbar by submitting

a Memorial to the Viceroy and Governor-General in Council

May I suggest that the question may kindly be brought up at tomorrow's Council meeting, before the items on the agenda are taken up. To facilitate discussion I am sending spare copies of my note to the Extraordinary Member and the Finance Member. The files themselves are

retained in office, being
bulky

Yours sincerely

Neil Cleeverdon Kemp

THE YELANDUR JAGHIR ANNUITIES.

First Phase.

1. Sir P.N. Krishna Murthi, Jaghirdar of Yelandur, having died without male issue on the 10th December 1911, his predeceased brother's elder son Mr. Narasinga Rao Purnayya applied to Government to be declared as Jaghirdar in succession. Representations were thereupon invited by Government from persons interested; and after hearing those advanced on behalf of Mr. NarasingaRao Purnayya, Lady Krishna Murthi and Mr. C. Raja Rao Sahib (son-in-law of Sir P.N. Krishna Murthi) on behalf of his minor son, the Government passed orders on the 12th August 1912 -

Notifn. No.J.468 dated 12. 8. 1912 and Order No.Legis. 24 of 1911. Sls.12 & 13, dated 12. 8. 1912.

I. declaring Mr. Narasinga Rao Purnayya to be Jaghirdar of Yelandur in succession to Sir P.N. Krishna Murthi with effect from the 10th December 1911; and

II. directing "as a consequential arrangement" [sic] "that the annuities payable to the first branch referred to in section 3 of the Regulation shall be as shown below," with effect from the date of Sir P.N. Krishna Murthi's death:-

		Rs.
1.	Lady Kaveri Bai Krishna Murthi	10,000.
2.	Mr. Narasinga Rao Purnayya ...	6,000.

This may, for convenience of study, be said to mark the first phase of the case.

Second Phase.

2. The readjustment as above of the annuities fixed by the Yelandur Regulation was opposed to the clear provisions of the Regulation, and as such was objected to by Mr. Narasinga Rao Purnayya. At the same time his younger brother Mr. Srinivasa Murthi Purnayya put forward a claim for a separate annuity for himself. Complaints were also received from Lady Krishna Murthi as regards irregular payments of her annuity by the Jaghirdar.

The parties were heard before Council, and an attempt was also made, but unsuccessfully, to have the disputes settled by private arbitration.

The matter was submitted by the present Dewan for the orders of His Highness the Maharaja on 2nd September 1914. At the suggestion of His Highness, Mr. Narasinga Rao Purnayya was sounded as to his willingness to secure to Lady Krishna Murthi a sum of Rs.10,000 a year for her life, with the result that he gave what purported to be an unconditional undertaking in writing to pay her an extra sum of Rs.4,000/- during her life time if the Government would reconsider their order of 12th August 1912 and fix the annuity payable to her at Rs.6,000. Various difficulties were however experienced in getting him to "place the undertakings on a legal basis," so as to allow of the payment being enforced from out of the Jaghir Revenues.

On the 1st September 1915, the Council recorded the following opinion: "Out of the annuity of Rs.10,000/- sanctioned on behalf of Lady Krishna Murthi, Rs.4,000/- may be made payable out of the surplus of the Jaghir revenue, during only the life time of Lady Krishna Murthi. An annuity of Rs.10,000/- will be divided equally between Mr. Narasinga Rao Purnayya and Mr. Srinivasa Murthi Purnayya. This distribution to have effect from the date of the death of Sir P.N. Krishna Murthi." (The late First Member Mr. H.V. Nanjundayya, while agreeing to the above recommendation, pointed out that it was not legally correct though it might do as a compromise.)

The recommendation was approved by His Highness, and an Order was issued on the 5th October 1915, directing, in modification of the order of 12th August 1912, that Lady Krishna Murthi be given an annuity of Rs.6,000 as widow of Sir Krishna Murthi, and an additional annuity of Rs.4,000/- out of the surplus of the Jaghir Revenues only during her life time; and that the brothers, Narasinga Rao Purnayya and Srinivasa Murthi Purnayya, be given annuities of Rs.5,000/- each, - in both cases with effect from the date of the death of Sir Krishna Murthi.

G.O.No.J.1366-8/Legis. 8-12-7.

This marks the <u>second phase</u> of the case.

Third Phase:

3. The third phase has reference to Mr. Narasinga Rao Purnayya's protest against the last mentioned order.

His principal grounds for asking for a reconsideration of the order so far as it related to the payment to Lady Krishna Murthi were, that the order conferred a larger amount on the widow than her husband himself had a right to during his life time; that the direction for payment of the additional Rs.4,000/- from out of the surplus was illegal and opposed to section 3 of the Regulation; and that the annuities having been fixed definitely, their variation was illegal.

As regards the annuity made payable to Mr. Srinivasa Murthi Purnayya, it was objected that, in the absence of an investigation into the claim of that individual and of an order of the Jaghirdar on the merits of such claim, the Government had no jurisdiction to entertain it under section 5 clause (3). Exception was also taken to the direction for payment from the date of Sir Krishna Murthi's death, instead of from the time when the brothers became divided in interest in March 1913.

The Jaghirdar therefore demanded a reference to the Chief Court under section 6 of the Regulation, pending which he wanted the order of Government to be kept in suspense.

4. These objections are considered in the late First Member Mr. Nanjundayya's minute of the 19th January 1916, from which I quote the following passages as they sum up all that can usefully be said on the point:-

"There was an initial error in this respect, when Rs.10,000/- was sanctioned to Lady Krishna Murthi. As it was not considered expedient to alter the amount subsequently, and as it would be too hard on the younger brother of the Jaghirdar that his share of his father's annuity should be lessened by Rs.2,000/-, the revised order of 5th October 1915 was passed. The effect of this was to correct the error of the earlier order in reducing the annuity of Mr. Purnayya heritable by his two sons after their father's death to Rs.6,000. At the same time, it was considered hard to reduce the pension of Lady Krishna Murthi and so it was directed that Rs.4,000/- should be taken out of surplus of Jaghir Revenue to add to Rs. 6,000/- inherited from her husband.

This no doubt is contrary to the terms of the Regulation as the Jaghirdar contends. But it was understood that Mr. Narasinga Rao was willing to pay the Rs.4,000/- for her life, though probably he intended that it should be found by both the brothers. As a matter of approximate equity, Government passed the last order without regard to the Regulation governing the case.

In respect of the adjustment of Mr. Srinivasa Murthi's claim also, the technical objection of the Jaghirdar seems correct. But a petition had been submitted by the claimant to the Jaghirdar and the latter's order that he could not dispose of it before Government Order was passed on his petition for revision may perhaps be taken as final and as giving jurisdiction to Government to entertain an appeal under section 5 (3). At any rate, the objection being a mere technical one and the division being correct under the Hindu Law and the Regulation, it need not be seriously considered.

Personally, I have all along in this case been for the position, that Government should decide the case strictly according to law, and that the fact of jurisdiction being given to it, should not vary the ordinary provisions of substantive law applicable to the case. But as this view did not prevail, some means had to be adopted to make the final order of Govt. as conformable as possible to the provisions of law. The last order of Govt. was an attempt in this direction, and if we are to be consistent with it, the only course seems to be that a more or less summary order should be passed, without entering into a controversy about the force of the reasons now advanced for reconsideration.

It is too late now to think of a reference to the Chief Court, which in fact would be seen to be quite unnecessary if the various opinions already on record in the files relating to the matter are perused.

The matter was considered in Council who are of opinion that a reply may be sent to the effect that Govt. regret their inability to comply with the request."

5. A reply as above was accordingly, with the approval of His Highness, sent to Mr. Narasinga Rao Purnayyapn 14th February 1916.

G.O.No.J.3299 dated 14. 2. 1916.

Fourth Phase.

6. In the fourth phase, we have to deal with Mr. Srinivasa Murthi Purnayya's complaint that his brother the Jaghirdar, declined to pay him the annuity ordered by Government. Upon this, the Jaghirdar was asked to show cause why Government should not order the recovery of ~~arrx~~ the arrears of annuity as an arrear of land revenue under Rule 5 of the Rules issued under a Government Notification of 17th December 1913.

Letter No.J.3601 dated the 6th March 1916.

No.J.1810/Legis.11-12-1.

7. The Jaghirdar has submitted* a number of objections, the principal of which are the following:

1. The Order of 15th October 1915 is not legally enforceable in spite of the decision of Government to the contrary. (Dated 14th February 1916).

2. Even if the said Order was enforceable, the annuity that accrued due thereunder would not fall due until the end of 1915-16, since the annuities payable under the earlier order of 12th August 1912 had already been actually paid and appropriated and the remainder of the revenues of the Jaghir remained at the absolute disposal of the Jaghirdar.

3. The rules which are sought to be invoked are not covered by statutory authority.

* Letter dt 31st March 1916.

He finally requests that, in view of the intricate points of law and equity involved, the case may be posted for arguments by Counsel.

8. The Dewan has upon this asked me to study the case and explain its legal aspects at a Council Meeting, a date for hearing the parties being fixed thereafter if necessary. I have accordingly gone through the bulky files in the case including the confidential papers kept in the Council Section; and have been holding myself in readiness to explain my views on the points arising. But as it has not yet been found possible to take up the question at a Council Meeting, and as it is not desirable to keep this matter further pending, I have thought it better to place on record briefly the opinion that I tentatively hold at present, without prejudice to any arguments that may be advanced later on to induce me to change such opinion.

9. The legal position as determined by the Yelandur Jaghir Regulation itself appears to be clear enough. Under sub section 1 of section 3, a sum of Rs.23,000/- is to be distributed, out of the revenues of the Jaghir, by way of annuities among the descendants of Dewan Purnayya in the five branches of descent. We are concerned here only with the first branch, as to which it is provided that P.N. Krishna Murthi shall have Rs.6,000/- and P.M. Purnayya (his younger brother) Rs.10,000. The

remainder of the revenue of the Jaghir, after payment of the above annuities, is declared to be at the absolute disposal of the Jaghirdar for the time being; so that it can admit of no doubt that, if it were not for what is apparently regarded as an unconditional undertaking by Mr. Narasinga Rao Purnayya to pay an additional sum of Rs.4,000/- to Lady Krishna Murthi, the order of Government enhancing the amount of annuity payable to her from out of the revenue of the Jaghir would be repugnant to the express provisions of the Regulation. As it is, it may be plausibly supported as merely giving effect to the undertaking voluntarily accepted by the Jaghirdar in order to obtain a final settlement of matters in controversy.

10. Under sub section 2, the annuities in question are declared inalienable but subject to the rules and usages of the Hindu Law of succession and partition. The annuities are clearly meant to be in the first instance the separate property of the persons against whose respective names they are shown in the Regulation. That being so, it follows that, on the death of each annuitant, his annuity descends to his heirs in accordance with the Rules of the Hindu Law. Consequently, Sir P.N.Krishna Murthi's annuity of Rs.6,000/- descended on his death to his widow as an estate for life, and did not go by way of survivorship to his nephews merely because he lived in union with them till his death.⊕ When his widow dies, the

⊗ Sir S.P. Sinha's opinion to the contrary on this point is, I think, an error: an annuity as such is as much separate property of the annuitant as the salary of a public servant is; it only becomes family property when it is actually drawn and thrown into the common stock.

annuity will go to his daughter, and after the daughter to the daughter's children.

The annuity of Rs.10,000/- in favour of Mr. P.N. Purnayya descended on his death in August 1911 to his own legal heirs, namely, his two sons who were then undivided and therefore took the annuity jointly. If it be a fact, as asserted by Mr. Narasinga Rao Purnayya, that the brothers effected a division only in March 1913, then Mr. Srinivasa Murthis claim to a separate moiety of the said annuity could only accrue as from that date; his right, if any, to participate in the proceeds for previous years would, I presume, have to be worked out by way of a claim to an account as incidental to partition proceedings, and cannot be summarily realised by an executive order of Government.

This is also the view taken by the Govt. Advocate (2nd A) but having regard to the provisions of Section 5 of this Regulation, I think the order of Govt. as regards the date of apportionment may be justified. 17-8-16.

11. As regards the validity of the order assigning Rs.5,000/- to Mr. Srinivasa Murthi Purnayya as his share of the annuity, I agree with Mr. Nanjundayya that the objection raised by the Jaghirdar may be dismissed as a technical one.

12. Then there is the question how far any arrears of annuity payable by the Jaghirdar can be recovered as an arrear of land revenue. This depends upon the validity of the Rules promulgated on the 17th December 1913, and in particular of Rule 5 which provides for recovery in that manner. These Rules purport to have been prescribed under section 8 of the

Regulation, which empowers the Government to "frame such rules as may be necessary for the purpose of appointing the time, place and mode of the payment of the annuities referred to in section 3, and for the purpose of enforcing the payment of such annuity and the orders passed under section 5." The rules under advertance clearly fall within this description; and, as they contain nothing that is inconsistent with the Regulation, and have been duly published in the gazette, they certainly do have the force of law. The objection to their validity is therefore untenable. Here it may be noted that Mr. Narasinga Rao Purnayya himself promised in January 1914, that is, as soon as the rules were passed, that he would "loyally endeavour to give effect to the same," subject only to a representation which he promised to submit (but has not so far submitted) "regarding some of its features calculated to be prejudicial to the interests of the Jaghir" (whatever they may be).

13. There seems to be no necessity for a reference to the Chief Court; and such a reference would also be inexpedient unless the Government were prepared implicitly to dispose of the case in conformity with the opinion of the Chief Court as required by section 6. It is not difficult, I should think, to anticipate what the opinion of that Court would be if a reference were made.

Fifth Phase.

14. The case has quite recently (since the above views were formed) entered on a further phase with the submission by Mr. Narasinga Rao Purnayya of a Memorial addressed to His Excellency the Viceroy and Governor-General of India in Council.

The Memorial does not raise any fresh points other than those already dealt with. Paras 1 to 4 allude to the terms of the Yelandur Jaghir Regulation, I of 1885; paras 7 to 10 refer to the circumstances following on the death of the late Jaghirdar and the passing of the Government Orders of 12th August 1912 and 5th October 1915. Paras 11 to 13 are rather more important, embodying as they do the substance of the Memorialist's objections to both portions of the final order: these have been already considered by me. The reasons for seeking the intervention of the Government of India are set forth in paras 14 and 15; while para 16 summarises the Memorialist's conclusions and prayer.

15. Personally I do not think there is any occasion for interference on the part of the Government of India in a matter concerned entirely with the interpretation and application of a special enactment passed after the Rendition though (like many other Regulations) with the previous sanction of the Government of India. Nor is it likely that this will be regarded as a fit matter for the exercise of the exceptional power of interference reserved to the Governor-General in Council by Article 21 of the Mysore Treaty of 1913.

16. In any case, I do not think the Durbar is called upon to forward the Memorial to the Government of India. The Rules ~~referred~~ referred to by the Secretariat relate to the submission of petitions through Local Governments in British India, and can have no application to the Governments of Native States. I would suggest that the Memorial be returned to Mr. Narasinga Rao Purnayya with the intimation that the Government do not see their way to transmit it to the Government of India.

17. I cannot help remarking that Mr. Narasinga Rao Purnayya would have been better advised if he had waited for a final decision on his letter of the 31st March 1916, before rushing up to the Government of India with a strongly worded Memorial, to which further, he has without the previous permission of Government appended communications addressed to him by the General Secretary in strict confidence.

18. In his covering letter, Mr. Narasinga Rao Purnayya asks that, pending the result of his Memorial, the force of the orders passed in regard to the payment of the annuities may be deferred. If the Memorial be returned, no action would be necessary on this request. Even if it be decided to send it on, the orders already passed cannot be totally suspended without entailing undue hardship on the other parties who have apparently no other means of their own upon which to subsist. What might however be done as an ad interim measure

is (1) to limit the payment to Lady Krishna Murthi to Rs.6,000/- a year, and (2) to allow the payment to Mr. Srinivasa Murthi Purnayya to be made as from the date of the separation of the brothers in estate (22nd March 1913).

19. Finally, I would suggest that notices be issued to all parties for an early date for the hearing and disposal of the questions connected with the fourth phase. It may then be possible to rectify the errors that still seem to attach to the previous decision of Government; and it may even be that Mr. Narasinga Rao Purnayya himself may be induced to stand less on what he considers his legal rights and to take a more sensible and ~~friendly~~ accommodating view of what is due from him as the head of the Jaghir to other members of the family.

M Chandrasekharam

14.7.16.

SUMMARY OF OPINION AND SUGGESTIONS.

Lady Krishna Murthi is only entitled to the annuity of Rs.6,000/- given to her husband, Sir P.N. Krishna Murthi under the Yelandur Jaghir Regulation. The additional Rs.4,000/- granted to her for life is contrary to the Regulation; it may be plausibly supported on the strength of the undertaking said to have been given by Mr. Narasinga Rao Purnayya to pay her the extra sum; but it is doubtful if he consented to have it treated as payable out of the Jaghir revenues. It is however probably inexpedient and too late to rectify what has been ordered in this respect. So Mr. Narasinga Rao Purnayya may be informed that as the additional sum was sanctioned with his concurrence and on his undertaking to pay it, this part of the decision of Government cannot be reconsidered.

2. The Jaghirdar objects to the allotment of Rs.5,000/ favour of his brother Mr. Srinivasa Murthi on two grounds.

The first ground is that Government had no jurisdiction to entertain his brother's claim in the absence of a prior adjudication by himself. This is only a technical objection and may be put aside.

The other objection has reference to the direction that effect be given as from the date of the death of Sir Krishna Murthi, to the division of the annuity of Rs. 10,000/- between the two brothers. This objection seems sound as the division should have effect from 22nd March 1913 when the brothers effected a partition.

3. The order of Government may be modified in this respect.

It is however to be considered that the jurisdiction of Civil Courts being barred by Sec.5, the rights of the younger brother to past accumulations could only be enforced by Govt: on appeal under sub-section (3).

15/8/46

If there is likely to be any delay in the matter, an ad interim order may be issued directing the Jaghirdar to disburse his brother's share from 22nd March 1913 pending final orders. A time ~~may~~ (say four weeks) may be fixed for this purpose; if he fails to comply within this time, coercive action ~~should~~ may be taken under the Rules.

3. There is no substance in the Jaghirdar's objection that the arrears of annuity payable by him cannot be recovered as arrears of land revenue. The Rules of 17th December 1913 have the force of law, and Rule 5 provides for recovery in that manner.

4. The request that the matter may be referred to the Chief Court cannot be granted.

5. The memorial to the Government of India submitted by Mr. Narasinga Rao Purnayya may be returned to him.

6. The parties may be heard by Government before the questions raised are finally disposed of.

Not necessary,

Mr Chandrasekhar
1-8-14

Draft put up in accordance with the above suggestions, as desired by the Dewan at the last Council meeting.

1/8/14

P.T.O

G. R. S. 12]

General and Revenue Secretariat. | File No. of 191 .

Serial No.

Under Sec 3 (2) of the Jeypore Jaghir Regulation, the annuities payable under Subsec (1) thereof shall be subject to the Rules & Usages of the Hindu Law of Succession & Partition.

During the lifetime of Mr. P.N. Purnaiya the annuity of Rs 10000/- was payable to him. In his hands it was his Separate property though he might have been an undivided member of the joint family consisting of himself & his elder brother Sri P.N. Krishnamurthi. Under the Hindu Law a member of a joint family possessed of property in which all the members are commonly interested is not debarred from holding property belonging exclusively to himself. His Capacity of an undivided member was recognised in the Shivagunga Case in which the Judicial Committee of the Priy Council ruled that the Separate property of an undivided

NOTE—Contn. sheet.

GPB—10,000—17-12-15

Serial No.

Member went by descent to his widow if he left neither a son nor a grandson nor a great grandson. To such property the rule of survivorship does not apply.

If therefore the annuity in question is treated as it ought to be as the separate property of Mr. P.V. Tumaiya it becomes after his death according to the Hindu Law of Succession the property of his two sons joint in character & liable to be partitioned by them in Equal moieties. From the date of partition between them viz 23.3.1913. Each brother is undoubtedly entitled to the severance & separate possession of his moiety of Rs 5000/-. Between the date of the death of Mr. P.V. Tumaiya and the date of the said partition (23.3.1913) it will be joint family property liable to be accounted for by the Senior Managing Member

NOTE—Contn. sheet.

GPB—70,000—17-12-15

G. R. S. 12]

General and Revenue Secretariat. | File No. of 191 .

Serial No.

~~Accommodation~~ to the junior Member when an account is taken of the Entire family property liable to be partitioned

The Modification proposed to be made in para 3 of the Govt. order is therefore in perfect Consonance with the Hindu Law of Succession & Partition

S. Govindaswamy Jr
16.8.16

NOTE—Contn. sheet.

GPB —70,000—17-12-15

G. R. S. 12]

General and Revenue Secretariat. | File No. of 191 .

Serial No.

I have suitably altered both the original drafts, as suggested by the Dewan at the Council meeting of the 10th instant.

The papers are forwarded to the First Member, in the first instance.

12 8 16

I agree in the draft order proposed by the 2nd member.

14. 8

To the Extraordinary Member.

14 8 16

Seen

17.8.16.

Put up Flag A

The opinion of the Government Advocate, whom I consulted as suggested by the Dewan, has since been received. It is in accordance with the views already expressed by myself.

But I think the order as to the date of the division of the P.N. Sumaigas annuity can be justified by reference to Section 5 of the Regulation

NOTE—Contn. sheet.

GPB—70,000—17-12-15

G. R. S. 12]

General and Revenue Secretariat. | **File No.** **of 191** .

Serial No.

The jurisdiction of the Civil Courts being barred, and the Government being the final authority (under draft-2.(3)) the arrangement may be regarded as quite legitimate & in the best interests of the brothers. I have altered para 3 of the draft order No. I accordingly.

17/8/16

The two drafts were considered and approved in Council yesterday.

I have added a draft submission note for the approval of the Dewan

18/8/16

Dewan

NOTE—Contn. sheet.

GPB—70,000—17-12-15

(7

G. R. S. 12]

General and Revenue Secretariat. | Legis File No. 35 of 1915.

Serial No. 4

Letter dated 4th August 1916
from Mr Srinivasamurthy Punniya
requesting early orders on his
petition to pass order the recovery
of arrears of annuity due to him
from the Yelandur Jahgir and
adducing additional arguments
in his favour.

16) Subd. The file on the subject-
(Legis 35-15) was sent to the
Dewan on 10th April 1916 and it is
understood that it has been
referred by the Dewan to
the Second Member for him
recording his opinion.

10/8/16

17) The Jaghirdar cannot object to the
payment of the petitioners share of the annuity
from the date of the partition between him and
his brothers. Considering that the brothers were
undivided and were members of a joint undivided
family, it will be a point for decision whether
the petitioner is entitled to claim a specific share
in any particular item of property (before partition
(25 Madras 149).
The petitioner's claim became barred by
Second Member)

1814
10.8.

B 219

NOTE—Contn. sheet.

GPB—70,000—17-12-15

G. R. S. 12]

(8

General and Revenue Secretariat.

Leg. File No. 35 of 1915. 16

Serial No.

I have included this letter in the papers "read" in the draft Order which is to be passed after the Meeting

NOTE—Contn. sheet.

GPB—70,000—17-12-15

(9

Submitted to His Highness.

Flag P.
Legn 8-12-42.

19) The Government Order of 5th October 1915, issued with the approval of His Highness, dealt finally with the question of the apportionment of the annuities payable under the Yelandur Jaghir Regulation to the First Branch. Lady Krishna Murthi was given her husband's annuity of Rs. 6,000 and, in addition, a further amount of Rs.4,000 out of the surplus of the Jaghir revenues for her life; and the two sons of Mr. P.N.Purnaiya were given moieties of their father's annuity with effect from the date from which the whole question was intended to be settled, viz., the date of Sir P.N.Krishna Murthi's death.

Flag Y
Legn 28-15-2

20) 2. Mr.Narasinga Rao Purnaiya, the present Jaghirdar, sought a reconsideration of the above order; but his application was rejected.

Papers under disposal. I

21) 3. There have however been complaints from Mr. Srinivasa Murthi Purnaiya that the Jaghirdar has not been paying the annuity to which he is entitled. The Jaghirdar, who was called upon to show cause why the arrears payable by him should not be recovered as arrears of land revenue, has sent in his objections;and has also sent a memorial, to be forwarded to His Excellency the Viceroy, protesting against the order of Government.

Paper under disposal - II (Linked file)
Legn 3-16-2

Flag B.

22) 4. The legal aspects of the question have been fully discussed in the note drawn up at my request by the Second Member of Council.

Draft for approval I & II

23) 5. The case was discussed in Council, and the drafts put up were considered to be suitable.

24) 6. The first draft deals with the representation of Mr. Srinivasa Murthi Purnaiya and the objections of the

(10

Jaghirdar; it points out that there are no adequate reasons for a modification of the orders already passed; and it gives the Jaghirdar two months within which to disburse past arrears. The second draft declines to forward the Jaghirdar's memorial to His Excellency the Viceroy, there being no obligation on the part of Government to do so.

25) 7. The drafts may be graciously approved.

M. Visvesvaraya -
12th Sept 1916-

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Further representation from the Jaghirdar of Yelandur in the matter of the apportionment of the annuities under the Jaghir Regulation ordered in Government Order No.J.1366-8 dated 5th October 1915.

27°

Order.

~~KRW~~

15/9/16

Secretary

17-9-16

W/18/9/16

G. R. S. 12J

(12

General and Revenue Secretariat.

File No. 35 of 1915.

Serial No.	
5	Do Dr. Narasimha Rao Pannaya " Sreenivasamurthi Pannaya Gnady Krishnamurthi No J-1190-2 21-9-1916 States that Govt see no reason to modify the order already passed and request the Collector to disburse the annuities within a period of two months from the date of this the receipt of this order.

NOTE—Contn. sheet.

GPB—70,000—17-12-15

DIARY No. J 1972

1915-19 16 13

SECTION Legis

FILE No. 35-15

SERIAL No. 1

13

Legis 1911

From

Srinivasamurti Purnaiya Esqre.

To

The Secretary to the Government
General Department.
Bangalore.

Sir,

I beg to acknowledge with thanks the receipt of G.O. no J 1366-8 Legis dt 5. oct 1915 and to submit with due loyalty my heartfelt thanks for sanctioning an annuity of Rs 5000/- in my favour from the revenues of Yelandur.

2. Though at considerable inconvenience I waited for two months to see if my brother the Jagheirdar would take any steps to disburse the annuity sanctioned by Government. As he did not do so, I applied on the 4 January last for payment expressing my willingness to accept the arrear payment at my place and in any manner convenient to him. In reply, he has written as follows:-

"As the said order of Government which purports to rearrange the annuities

payable to the members of I Branch, Dewan Ponnaiya's family, is defective (iii) law in many respects, I have pointed out to Government the illegalities of the order, in a formal communication. In these circumstances I regret my inability to order payment of annuity to you at present."

3. The Government has been so often troubled with our family affairs that it is with considerable reluctance I venture to approach Government again. I am in considerable difficulties for want of money even for my education. The Jaghirdar might have paid the arrear or a part thereof without any risk; for even if Government be pleased to reconsider the order, all our paternal property including my share is yet in his possession as he has been delaying partition. It will be noticed that the Jaghirdar does not in his reply even suggest when he will make a remittance. Under these circumstances I cannot but approach Government for help. I beg kind attention to the rules prescribed in G.O. No. 1811-17.D/17 Dec 1913 Legis

and to request that the Government may be pleased to act under rule 5 to recover my dues.

I have the honour to be,
Sir,
your obedient servant,
Srinivasamma Chinnaiy.

Nellore.
14. January 1916

Revised draft

X

G. R. S. 26]

File No. 35-15

6/3

Serial No. 2

Diary No. of letter replied to 972

No. J 3601/Encl: one.

General and Revenue Secretariat

( )

, the *191* .

To The Jahgirdar of Yelandur

Purnaprasada

Bangalore

Date of issue 6th March, 1916

Signed by Mr. C. Srinivasa Ayer

Sir

I am directed to forward herewith a copy of the ~~complaint~~ petition presented by your brother Mr. Srinivasa murthy Purnaiya to the effect that the annuity due to him from the Jahgir under Govt. order No J 1366-8/Legis 8-12 dated 5th Oct: 1914 has not

over.

SUBJECT.

been paid by you ~~to him~~ even though he demanded the same.

I am to request you to be so good as to send before the 1st April 1916 ~~end of the month~~ your objections, if any, to ~~the prayer contained in~~ the petition shew why Govt should not order the recovery of the arrears of annuity as an arrear of land revenue under rule 5 of the rules issued under Govt Notn No 9 1810 - Legis 11-12-1 dated 17th Dec. 1913.

I have &c

GBGPS
for secretary to Govt

G. D.

VRC
13/16

List of enclosures

Copied by

Examined by

GPB—25,000—4-3-13

Rej Due

Office of the Jaghirdar of Yelandur,

No. 1322. "Purnaprasada", Bangalore,

Dated 31st March 1916.

18 III Pr. 1916

DIARY No. J. 2634

15-4-16

Legis

35-15

3

From,

Narasinga Rau Purnaiya Esq. B. A.,

Jaghirdar of Yelandur.

To,

D. M. Narasinga Rau Esq. B.A., B. L.,

Secretary to the Government of H.H. the Maharaja

of Mysore, General Department,

Bangalore.

Sir,

I beg to acknowledge the receipt of your No. J. 3601, Legis. 35-15-2, dated the 6th March 1916, requesting me to send before the 1st April 1916, my objections, if any, to show why Government should not order the recovery of the arrears of the annuity claimed by Mr. Srinivasamurthi Purnaiya, as an arrear of land revenue under rule 5 of the rules issued under Government Notification No. J. 1810-Legis. 11-12-1, dated the 17th December 1913: and to state my objections as follows:-

2. I shall first of all specify my chief objection against the proposed recovery as arrear of land revenue. The rules framed by Government doubtless provide for the same: but this is not sufficient legal authority without statutory power behind the rules. Now the Yelandur Jaghir Regulation confers no such authority. Nor does section 193 Land Revenue Code supply the omission as the conditions precedent to its application are absent in regard to the annuities governed by the Yelandur Jaghir Regulation. Because the annuities are not sums or moneys due to Government, and neither the Land Revenue Code nor the Yelandur Jaghir Regulationnor any other Act or Regulation has declared such annuity to be leviable as a revenue demand or as an arrear of land revenue: There is no Act or Regulation under which it could have been lawfully ruled

ruled that the procedure prescribed for recovery of arrears of land revenue would apply to annuities under the Yelandur Jaghir Regulation.

3. I shall now briefly show why Government should not grant the application of Mr. Srinivasamurthi Purnaiya as matters stand:-

(a) Under section III of the Regulation the Government passed an order on the 12th August 1912 redistributing the annuities. In such redistribution Mr. Srinivasamurthi Purnaiya was granted nothing, the available total amount of Rs.16,000/- being allotted as follows:-

Lady Krishna Murthi Rs. 10,000/-

Mr. Narasinga Rau Purnaiya ,, 6,000/-.

Mr. Srinivasamurthi Purnaiya himself conceded this position in the concluding part of paragraph 5 of his memorial to Government, dated the/7th August 1912, which ran as follows:-

" But as the Government has been pleased to assign to the Jaghirdar the annuity of Rs. 6,000-which the late Jaghirdar Sir P. N. Krishna Murti was entitled to, your petitioner prays that he may be granted the annuity of Rs. 10,000 assigned by the Regulation to your petitioner's father the late Mr. P. N. Purnaiya especially as it represents the balance of Rs. 16,000/- the annuity assigned to the two undivided brothers after deducting therefrom the annuity of Rs. 6,000/- which has now been allotted by Government to the present Jaghirdar ".

Now, this order was enforced by Government until the date of their next order in regard to the same matter, viz, that dated 15th October 1915. Therefore the annuities had been actually paid and appropriated under the first order and all the remainder of the revenue of the Jaghir after payment of the annuities

annuities specified in section 3 and above, remained at the absolute disposal of the Jaghirdar. The annuity which will accrue due under the order of 15-10-15 will not be due, however, until the end of 1915-1916, granting for the sake of argument the order itself to be in accordance with law.

(b) But I have already shown in my No. 829, dated the 17th November 1915, how the Government order of 15-10-15 is not legally enforceable and the objections raised by me therein remain yet unanswered, though the Government passed an so recently as the 14th February 1916 to the effect that " Government regret their inability to comply with the request."

(c) In his letter to me, dated 4th January 1916 Mr. Srinivasa Murthi Purnaiya requested that interest should be paid, forgetting that the " due date " could in the circumstances of the case be not earlier than 15th October 1915, the date of the order giving him annuity for the first time and that there was no " default " of any kind on my part within the meaning of the rules.

4. In view of the intricate points of law and equity involved in the case, I beg to request that Government will be pleased to post the case for arguments and to hear my counsel after necessary notice.

I have the honour to
remain,
Sir,
Your most obedient servant,

Jaghirdar of Yelandur,

Dwaraka J 292
Mylapore
Madras 12
4 August 1916.

Legis 35-15-4

5 AUG 1916

To

The Secretary to the Government of Mysore
General Department

Legis 46

Sir,

With reference to G.O. No.J 1366-8/Legis. Dated 5th October 1915, Kindly sanctioning an annuity in my favour of Rs.5000/- from the Yelaundur Jaghir, I have the honour to respectfully report as follows.

After waiting some months to see if the Jaghirdar would pay the annuity, I addressed him in January last and he declined to pay on the ground the Government order was 'defective in law'. Thereupon on the ~~first~~ fourth January I memorialised Government to exercise their powers under rule 5 of the rules sanctioned in G.O. J 1811-17 Legis dated 17th December 1913. This memorial is yet pending consideration.

2. I understand the Jaghirdar, my brother, objects to the payment of arrears from the date of the deatth of Sir P. N. KRishnamurthi as directed in para 3 of the G.O. of 1915. I have represented more than once that I am in considerable straits and will be considerably obliged to Government if early orders are passed. I beg to pray that orders be passed for the recovery of Rs.5000/- at least, the allowance for 1914-15. Orders about the realisation of arrears may fallow after consideration which may take time. My application is in time and it is open to Government to proceed at any time thereupon.

3. I beg also to be permitted to urge that the Jaghirdar's representations against the orders of Government are not sound. I am not aware of the specific

grounds on which he objects and can only submit the following general observations. The only possible dates for the commencement of the payment of the annuity are

(a) The date of the death of Sir P. N. Krishna murti, K.C.I.E., 10th December 1911 as directed in the G.O.

(b) The date of partition between the brothers 22nd March 1913.

(c) The date of the Government order 5th October 1915.

On account of numerous representations and counter representations, there was delay in passing orders and it cannot be reasonably held that the date (c) is equitably proper. Obviously date (a) already ordered is the correct date because from that date the Jaghirdar has been deriving all the income of the Jaghir inclusive of the annuities. If the date be postponed, all the annuitants are deprived of their income and the Jaghirdar obtains one to which he is entitled. It might however be argued that the separate annuities need be separ tly paid only from the 22nd March 1913, When the brothers became separate as all the previous income vested in the brothers jointly. This argument is highly technical and while really conceding I am entitled to my annuity ~~nearly~~ as a coparcener merely negatives the necessity of Government to pass orders in respect of money merged in joint property; it leaves me to pursue my remedies in course of general law. Though this arguments may be valid in respect of property subject to ordinary Hindu law, it cannot apply to the subject matter of annuities which is precluded from the sphere of Civil Courts and has been reserved by regulation for the special consideration of Government themselves. If therefore Governmeent be pleased to postpone the commencement of the annuity to 22nd

March 1913 or any other date subsequent to the death of Sir P. N. Krishnamurti, my only proceedure to recover the arrears of the annuity for the interval is by way of petition to Government, which doubtless they will be pleased to grant, as other wise the Jaghirdar becomes entitled to Cash to which he is not entitled. I would respectfully point out that this additional cumbrous procedure might be avoided if Government be pleased to adhere to the orders already passed. I beg to add the Jaghirdar has been rigourously setting apart all his jaghir income as a separate fund and it is no trouble and hardship to him to pay his dues out of the cash accumulations in his hands.

I beg to remain,

Sir,

Your obedient servant,

Srinivasamurthi Naga.

4/8/16

Revised page no. I

Legis. 35-15-5.

Proceedings of the Government of H.H. the Maharaja of Mysore.

Read again:-

Govt. Order No.J.1366-8/Legis.8-12-42 dated 5th October 1915 directing, in modification of para 6 of Govt. Order No.J. 464-7/Legis.24-11-15 dated the 12th August 1912, that Lady Kaveri Bai Krishna Murthi, be given an annuity of Rs.6,000/- and an additional amount of Rs.4,000/- out of the surplus of the Yelandur Jaghir revenues, only during her life-time; that Mr. Narasinga Rao Purnaiya and Mr. Srinivasa Murthi Purnaiya be assigned annuities of Rs.5,000/- each; and that the above distribution do take effect from the date of Sir P.N. Krishna Murthi's death.

Date of issue 21st September 1916.
Signed by Mr. G. Srinivasa Rao

2. Govt. Order No.J.3294/Legis.28-15-2 dated 14th February 1916 declining to reconsider the application of Mr. Narasinga Rao Purnaiya, Jaghirdar of Yelandur, praying for a reconsideration of the above order.

P.W.D. I

Read also:-

3. Petition dated the 14th January 1916 from Mr. Srinivasa Murthi Purnaiya, representing that the Jaghirdar has been putting off payment of the annuity to which he is entitled under the Govt. Order of 5th October 1915 and requesting that action may be taken to enforce the

payment thereof under Rule 5 of the Rules prescribed in Govt. Order No.J.1810/Legis 11-12-1 dated 17th December 1913.

T

4. Letter No.J.3601/Legis.35-15-2 dated 6th March 1916, from the Secretary to Govt., General Department, to the Jaghirdar of Yelandur, forwarding a copy of the above petition and requesting him to state his objections, if any, as to why the arrears of annuity due should not be ordered to be recovered as an arrear of land revenue under Rule 5 of the Rules of 17th December 1913.

P.W.D. III

5. Letter dated 31st March 1916 from the Jaghirdar of Yelandur, setting forth his objections to the recovery of the arrears of annuity claimed as arrears of land revenue and to the grant of Mr. Srinivasa Murthi Purnaiya's application; and praying that the case may be posted for arguments and hearing counsel.

P.W.D. IV (Linkers file)

6. Letter dated 4th August 1916 from Mr. Srinivasa Murthi Purnaiya submitting certain representations with regard to the date from which the allotment of Rs.5,000/- in his favour should have effect, and requesting early orders in the matter of the disbursement of the arrears due to him by the Jaghirdar.

(2)

Order No. J 1190-2/Legis. 35-15-5.
Dated Bangalore, the 21st September 1916.

The Government have given ~~their~~ the best consideration to the representations made by the Jaghirdar, Mr. Narasinga Rao Purnaiya. The case has already been fully heard by Govt. and they do not consider that there is any necessity for posting it again for fresh arguments.

2. In so far as the mode of distribution of the annuities directed in the order of 5th October 1915 read above is concerned, the Govt. have already dealt with his objections and rejected them after due examination as intimated in the order of 14th February 1916. It may be as well to remind the Jaghirdar of the fact that the enhancement of the annuity payable to Lady Krishna Murthi merely gives effect to the undertaking given by himself to pay Lady Krishna Murthi an additional sum of Rs.4,000 for her life.

3. The Jaghirdar's objection to effect being given from December 1911 to the division of the annuity of Rs.10,000 in favour of his brother and himself, instead of from the date on which the two effected the partition of their other family properties, would no doubt be

OJ 21.9.16
Sd/ by Mr. G. Srinivasa Iyer.

Z

5. Govt. cannot accept the Jaghirdar's objection to the recovery of past arrears of annuity as arrears of Land Revenue. The Rules of 17th December 1913, para 5 of which clearly authorises such recovery, were prescribed under section 8 of the Yelandur Jaghir Regulation, which empowers Govt. "to frame such rules as may be necessary for the purpose of appointing the time, place and mode of the payment of annuities referred to in section 3 and for the purpose of enforcing the payment of such annuities and the orders passed under section 5."

6. The Government trust that there will be no occasion for taking action under the Rules in question for the enforcement of the payment of the annuities ordered by Government; and that, so far as the arrears which have already accrued due are concerned, the Jaghirdar will be good enough to disburse the same within a period of two months from the date of the receipt of this order and intimate the fact to Govt.

17.8.16

12.9.16

To

Narasinga Rao Purnaiya Esq,
Jaghirdar of Yelandur.
Srinivasa Murthi Purnaiya Esq.,
Lady Krishna Murthi.

Secretary to Government,
~~Revenue~~ Department.